

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MICHAEL A. JOY, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 07-405-JJF
 :
 HEALTHCASE C.M.S. et al., :
 :
 Defendants. :

ORDER

WHEREAS, Plaintiff Raymond Blake ("Plaintiff") was a prisoner incarcerated within the Delaware Department of Correction at the time he filed this Complaint with other Plaintiffs under 42 U.S.C. § 1983, along with an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915;

WHEREAS, on September 12, 2007, the Court entered an order granting Plaintiff leave to proceed in forma pauperis, requiring Plaintiff, along with the other named Plaintiffs, to pay the \$350.00 filing fee, jointly and severally, as determined by statute (D.I. 18);

WHEREAS, on February 21, 2008, Plaintiff was dismissed from the case for failure to submit the required authorization form (D.I. 29);

WHEREAS, on April 8, 2008, Plaintiff filed a Motion For Reconsideration of the February 21, 2008 dismissal order (D.I. 39);

WHEREAS, on May 28, 2008, an Order sent to Plaintiff in a

separate case, Civ. Action No. 07-230-JJF (D.I. 29), was returned indicating that he had been released and was no longer incarcerated;

WHEREAS, under the Prison Litigation Reform Act, release does not eliminate the obligation of payment of a filing fee that could and should have been met from the trust account while imprisonment continued. Robbins v. Switzer, 104 F.3d 895, 899 (7th Cir. 1997); see also Drayer v. Attorney General, Nos. 03-2517, 03-2518, 81 Fed. Appx. 429 (3d Cir. 2003);

THEREFORE, IT IS HEREBY ORDERED that:

1. Within **thirty days** from the date of this Order, Plaintiff Raymond Blake shall either pay the balance of the filing fee owed (\$350.00) **or** shall submit a new standard form application to proceed without prepayment of fees and affidavit so the Court may determine whether he is still eligible to proceed in forma pauperis.

2. Upon compliance with this Order, the Court will consider the pending Motion For Reconsideration (D.I. 39).

NOTE: The failure of Raymond Blake to timely comply with this Order shall result in the dismissal of his claim without prejudice and the denial as moot of his Motion For Reconsideration.

July 30, 2008
DATE

Joseph J. Fane
UNITED STATES DISTRICT JUDGE